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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,232	04/13/2007	Mitsuo Sekine	4600-0128PUS1	6911
2292 7590 10/13/2009 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER KOSACK, JOSEPH R				
ART UNIT 1626		PAPER NUMBER		
NOTIFICATION DATE 10/13/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/590,232

Applicant(s)

SEKINE ET AL.

Examiner

Joseph R. Kosack

Art Unit

1626

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 3,5,8-13,15,16 and 18-25 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14 is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6,7 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB-083)
Paper No(s)/Mail Date 11/30/06 & 7/31/09
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claims 1-25 are pending in the instant application.

Election/Restrictions

Applicant's election with traverse of Group I (claims 1-15 and 17) along with an election of species in the reply filed on June 15, 2009 is acknowledged. The traversal is on the ground(s) that since no lack of unity requirement was made in the international phase of the application that no lack of unity requirement can be made in the national stage of the application. This is not found persuasive because unity of invention is reevaluated at every stage of the PCT/371 application process.

The requirement is still deemed proper and is therefore made FINAL.

Claims 16 and 18-25 are withdrawn from consideration by the Examiner under 37 CFR 1.142(b) as being drawn to a non-elected invention.

The Applicant has made an election of species in the instant application. As the elected species has been found to be unpatentable, the search has been limited to the elected species. As claims 3, 5, 8-13, and 15 do not read on the elected species, those claims are currently withdrawn from consideration by the Examiner under 37 CFR 1.142(b) as being drawn to a non-elected invention.

Priority

The claim to priority as a 371 filing of PCT/JP05/03440 filed on February 23, 2005, which claims benefit of JP 2004-47605 filed on February 24, 2004 is acknowledged in the instant application.

Information Disclosure Statement

The Information Disclosure Statements filed on November 30, 2006 and July 31, 2009 have been considered by the Examiner.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 2, 4, 6, 7, and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 contains the groups V^1 , V^2 , V^3 , V^n , V^{n+1} , X^1 , X^2 , X^3 , X^n , and X^{n+1} , in Formula I that are undefined. The claim contains a definition for V and X, but not for V^1 , V^2 , V^3 , V^n , V^{n+1} , X^1 , X^2 , X^3 , X^n , and X^{n+1} . As claims 2, 4, 6, 7, and 17 are dependent on claim 1, those claims are rejected as well. Appropriate correction is required.

Claim 6 recites the limitation "wherein 'j' and 'k' are 1" in claim 1. There is insufficient antecedent basis for this limitation in the claim as "j" and "k" are not in claim 1.

Claim 6 recites the limitation "wherein R_1 and R_3 represent a hydrogen atom" in claim 1. There is insufficient antecedent basis for this limitation in the claim as R_1 and R_3 are not in claim 1.

Conclusion

Claims 1, 2, 4, 6, 7, and 17 are rejected. Claim 14 is currently allowable over the prior art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph R. Kosack whose telephone number is (571)272-5575. The examiner can normally be reached on M-Th 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on (571)-272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph R Kosack/
Examiner, Art Unit 1626